

ASSEMBLY BILL

No. 2191

Introduced by Assembly Member Wagner

February 20, 2014

An act to amend Section 1110 of the Unemployment Insurance Code, relating to unemployment benefits.

LEGISLATIVE COUNSEL'S DIGEST

AB 2191, as introduced, Wagner. Unemployment benefits: employer contributions: payments.

Existing law provides for unemployment compensation benefits for eligible individuals in the state who are unemployed through no fault of their own. Existing law requires an employer, as defined, to make quarterly contributions for unemployment insurance premiums, as specified.

This bill would authorize an employer, with certain exceptions, to pay the quarterly employer contributions in an amount that is at least 25% of the estimated total annual contribution amount required. The bill would require, upon annual reconciliation, if an amount paid in a quarter was less than 25% of the actual annual employer contribution amount required, the penalty and interest incurred to apply only to the difference of 25% of the actual total annual employer contribution amount required and the amounts paid.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature hereby finds and declares all of
2 the following:

3 (a) The California Unemployment Insurance Fund has been in
4 distress for several consecutive years, with the employer
5 contribution rate schedule set at the highest allowable amount
6 under state law.

7 (b) State unemployment insurance tax rates for most California
8 employers are at or only slightly below the maximum 6.2 percent
9 of the first \$7,000 of every employee's earnings.

10 (c) The failure of the state to repay federal loans to the
11 Unemployment Insurance Fund has increased federal
12 unemployment insurance tax rates for all California employers,
13 increasing an employer's maximum combined state and federal
14 unemployment insurance tax rate to as much as 7.7 percent.

15 (d) The unemployment insurance contribution payment structure
16 requires most employers to report and pay employer contributions
17 on a quarterly basis, resulting in the lion's share of an employer's
18 total annual contribution liability being due in the first quarter of
19 the year, and subsequent quarterly liability becoming progressively
20 reduced as employees' earnings pass the subject wage limit.

21 (e) Many employers struggle to pay the disparately large
22 contribution for the first quarter, creating cash flow issues that
23 restrict job growth, economic development, and capital purchases.

24 (f) Failure to pay the required quarterly unemployment insurance
25 liability results in an immediate 10 percent penalty, plus interest,
26 until fully paid.

27 (g) Just as businesses and individuals have the option to pay
28 estimated income taxes in equal quarterly installments, businesses
29 should be given the option of paying their annual unemployment
30 insurance liability in equal quarterly installments without penalty.

31 SEC. 2. Section 1110 of the Unemployment Insurance Code
32 is amended to read:

33 1110. (a) (1) Employer contributions required under Sections
34 976 and 976.6, the amount of benefits received by any individual
35 pursuant to this part that is deducted from an award or settlement
36 made by the employer under the provisions of Section 1382, and,
37 except as provided by subdivision (b) of this section, worker
38 contributions required under Section 984 are due and payable on

1 the first day of the calendar month following the close of each
2 calendar quarter and shall become delinquent if not paid on or
3 before the last day of that month.

4 (2) *An employer, except an employer who is eligible to make*
5 *the election described in subdivision (e), may elect to pay employer*
6 *contributions required under Sections 976 and 976.5 that are due*
7 *and payable on the first day of the calendar month following the*
8 *close of each calendar quarter in an amount that is at least 25*
9 *percent of the estimated total annual contribution amount required.*
10 *Upon annual reconciliation, if an amount paid for a quarter was*
11 *less than 25 percent of the actual annual employer contribution*
12 *amount required, the penalty and interest incurred pursuant to*
13 *Sections 1112.5 and 1113 shall apply only to the difference of 25*
14 *percent of the actual total annual employer contribution amount*
15 *required and the amount paid for that quarter.*

16 (b) Worker contributions required under Section 984 are due
17 and payable at the same time and by the same method as amounts
18 required to be withheld under Section 13020 are paid to the
19 department pursuant to Section 13021, regardless of the amount
20 of accumulated unpaid liability for worker contributions.

21 (c) Employer contributions submitted pursuant to Section 976.5
22 shall be paid on or before the last working day of March of the
23 calendar year to which the reduced contribution rate would be
24 applicable. Any employer whose eligibility for an unemployment
25 insurance contribution rate determination is redetermined to make
26 that employer eligible to submit voluntary unemployment insurance
27 contributions in accordance with Section 976.5, may submit a
28 voluntary unemployment insurance contribution within 30 days
29 of the date of notification of the redetermination.

30 (d) Except as provided in subdivision (e), any employer
31 described in Sections 682 and 684 may elect to report and pay
32 employer contributions required under Sections 976 and 976.6,
33 and worker contributions required under Section 984, annually.
34 All contributions are due and payable on the first day of January
35 following the close of the prior calendar year and shall become
36 delinquent if not paid on or before the last day of that month. An
37 election under this subdivision shall be effective the first day of
38 the calendar year in which it is approved by the department. An
39 election under this subdivision may not be approved if the employer
40 has an outstanding return or report delinquency on the records of

1 the department, or an unpaid amount owed to the department, that
2 is not the subject of a timely petition for reassessment pending
3 before the appeals board at the time the election is filed.

4 (e) Any employer described in Sections 682 and 684 who pays
5 more than twenty thousand dollars (\$20,000) in wages annually,
6 shall not be entitled to the election allowed in subdivision (d). If
7 at any time during the year the total wages paid by an employer
8 electing to file under subdivision (d) exceeds twenty thousand
9 dollars (\$20,000), the election shall be terminated at the close of
10 that calendar quarter. In addition to the report of wages due for
11 that quarter, the employer shall file a return and pay any
12 contributions due for that portion of the year during which the
13 election was in effect, and shall pay contributions in accordance
14 with subdivisions (a), (b), and (c) for the remainder of that year.

15 (f) Contributions due pursuant to this section may be submitted
16 by electronic funds transfer, as defined in Section 13021.5.
17 Contributions submitted by electronic funds transfer shall be
18 deemed complete in accordance with paragraph (4) of subdivision
19 (e) of Section 13021.